

CONDESCENDENCE, or alphabetical Catalogue of some Noble persons who have been Peers of *Scotland*, whether in right of their wives, or of the ladies, heirs-female, from whom they were descended.

Offered by *Hugh Lord Lovat*, in the process presently depending against him, at the instance of Capt. *Simon Fraser of Beaufort*, before the Lords of Council and Session.

1. **M**ALCOLM Earl of Angus was succeeded by Mathilda Angus, his father's sister, who having married Sir Gilbert de Umphravills, the said Sir Gilbert thereupon, and his son after him, both became Earls of Angus in her right, the one of his wife, and the other of his mother.

2. The above family of Umphravills being forfeited, Sir Stewart, John Stewart of Buncle was created Earl of Angus by King E. Angus. David II.; but his male issue failing in his grandson Thomas, anno 1377, his honours and estate went thereafter to Margaret his grand-daughter, and heir to the said Thomas her brother. The said Lady married first Thomas Earl of Mar, by whom she had no issue; and thereafter she was the second wife of William first Earl of Douglas, by whom she had a son called George, who in her right, and upon her resignation, anno 1389, became Earl of Angus.

3. Thomas of Galloway was Earl of Athol, in right of Athol. Isabel his wife, the eldest heir-female of the ancient Earl of Athol; and they were succeeded in that dignity by Patrick their son; who dying anno 1241,

4. His

4. His mother's sister, then wife of David Hastings, succeeded him in that earldom:—And again,

5. Her daughter and heir by him, was married to John de Strathbogie, who, in right of her, was Earl of Athol. He had issue by his said wife, David Earl of Athol, forfeited in the time of King David II.

Stewart.
E. Athol.

6. John Earl of Athol dying in 1594 without issue-male, James Lord Innermeath, who had married his second daughter, was created Earl of Athol; but that being complained of by Dorothea, then Countess of Tullibardine,

7. The eldest daughter of the said John, James Lord Innermeath resigned the same in her favour; and her posterity by the said Earl of Tullibardine always thereafter, in her right, possessed the title and precedency of the old Earls of Athol, until they have since been raised to higher dignities.

Murray.
L. Both-
well.

8. Thomas de Moravia, Lord of Bothwell, and *pannitaris Scotiae*, dying a hostage in England for King David II.'s ransom, *anno* 1366, left only a daughter, Jean, his sole heir, married after his death to Archibald Lord Galloway, afterwards Earl of Douglas, to whom she brought the honour and estate of Bothwell; who, and his successors, Earls of Douglas, always styled themselves Lords of Bothwell.

Lord
Brechin.

9. David de Brechin, Lord of Brechin, was succeeded by Margaret, his sister and heir, who married David de Barclay, who, in her right, became Lord Brechin.

Barclay,
Lord Bre-
chin.

10. Sir David Barclay, Lord of Brechin, son of the former David, left a daughter, Margaret, his heir, wife to Walter Earl of Athol, who thereupon likewise became Lord of Brechin; and notwithstanding that he possessed the said estate and honours only, as being married with the Lady heiress thereof; yet it was found likewise to fall under his forfeiture *anno* 1437; and that although it was strenuously opposed by Sir Thomas Maule of Panmuir, who laid claim to the said estate and honours of Brechin, in the right of his grandmother Jean Fleming, the daughter of Sir David Fleming

(3)

ming of Biggar, by Margaret his wife, the sister and heir of the last mentioned Sir David Barclay, Lord of Brechin.

11. Sir William Cumming, Knight-justiciary of Scotland, ^{Earl} *anno* 1240, became Earl of Buchan, by the marriage of Margaret, daughter to Fergus Earl of Buchan; which their posterity enjoyed, until their forfeiture by King Robert the Bruce.

12. John Stewart, High Chamberlain of Scotland, and Constable of France, was made Earl of Buchan, *anno* 1419; and, after his death, which happened 1424, left only one daughter, Jean, his heir, who was married to George Lord Seton, and who thereupon assumed the arms and laid claim to the honour of the deceased Earl of Buchan, until his eldest son, having been unfortunately involved in the treasonable practices of Walter Earl of Athol against King James I. he was obliged to compound, and renounce his own and wife's right of the said earldom of Buchan, on King James II. in lieu thereof, settling a yearly pension of L. 40 Sterling, to be paid out of the exchequer to him, and his wife the said Lady Jean Stewart, and the longest liver of them two.

13. Sir James Stewart, second son of Sir James Stewart, surnamed *the Black Knight of Lorn*, was created Earl of Buchan ^{2. Stewart} *in anno* 1469; whose grandson, John Earl of Buchan, by Margaret his wife, has issue John Master of Buchan, killed at Pinkie in the lifetime of his father, leaving one daughter, Christian, his heir, who, *anno* 1551, succeeded her grandfather in the earldom of Buchan, and married Robert Douglas, brother to William Earl of Morton, who, in her right, became earl of Buchan. Their son was James earl of Buchan, who had issue a daughter.

14. Mary, who succeeded him *anno* 1601; which Mary Countess of Buchan was married to James eldest son to John Earl of Mar, by his second wife Margaret, daughter of Esmé Earl of Lenox; upon which marriage the right of succession to the earldom of Buchan was restricted by a charter under the

the great seal, proceeding upon the Countess's resignation, and limited to the heirs-male of the said Countess, and James her husband; which failing, to the said James his nearest lawful heirs whatsoever: by virtue of which settlement, proceeding as above, David Lord Cardross, formerly, is now Earl of Buchan.

Caithness. 15. Malisius Earl of Strathern married the daughter of Magnus Earl of Caithness and Orkney, and thereby, in the right of his wife, became likewise Earl of Caithness and Orkney.

16. William Earl of Ross having married Isabel, one of the co-heirs of the said Malisius, *anno* 1374, thereby became Earl of Caithness, in the right of his said wife; which, after the forfeiture of the said Malisius, was confirmed to him by King David II. by a charter of confirmation, dated at Scoon the 12th of May 1302.

Carlisle. 17. Michael Lord Carlisle had Michael his son, who died in the lifetime of his father, leaving John a son, and Elisabeth a daughter, who, upon the death of her brother John, succeeded her grandfather in the honours. She married Sir James Douglas of Parkhead, who thereby became Lord Carlisle of Torthorwald.

Carrick. 18. Neil Earl of Carrick left one daughter, Martha, his sole heir, first married to Adam de Kilconquhar, who thereupon was Earl of Carrick; but he dying in the Holy Land *anno* 1272, without issue by her, she again married Robert de Bruce, Lord of Annandale, &c. in whose right also he became Earl of Carrick. He died *anno* 1303, leaving issue by his Countess aforesaid, Robert his son, and Earl of Carrick, who, coming to the crown by the name of *Robert the First*, he gave the earldom of Carrick to Edward his brother, sometime King of Ireland, who being slain at the battle of Dundalk, *anno* 1318, left two natural sons, Robert and Alexander. King Robert gave the earldom first to Robert; and he being killed at the battle of Duplin 1332, was

was succeeded in the earldom of Carrick by his daughter and heir Eleanore.

19. Which Eleanore Countess of Carrick married first Sir William Cunnyngname, and next Duncan Wallace, of Sundram; but by neither of them had she any issue; so, upon her death, the earldom returned to the crown.

20. The late Duke of Ormond, at the election of sixteen Lord Dingwall. peers for Scotland, *anno* 1710, laid claim to the honour of Lord Dingwall in the right of Elisabeth his grandmother, who was the daughter of Richard Preston, Lord Dingwall, that died without issue-male *anno* 1622, and his Grace thereupon was received accordingly.

21. Alexander Lord Elphinston dying without any issue- Lord Elphinston. male *anno* 1649, his only daughter and heir married her cousin Alexander Elphinston of Barns, who thereafter became Lord Elphinston.

22. Duncan Earl of Fife, killed at Durham *anno* 1346, was Fife. succeeded by Isabel his daughter and heir, who brought the honour, first, to Sir William Ramsay her husband, and afterwards to Sir Thomas Bisset; and having no issue, resigned the earldom of Fife to Robert Earl of Monteith; who thereafter styled himself Earl of Fife and Monteith, before he was made Duke of Albany.

23. Allan Lord Galloway married Margaret, eldest daughter of David Earl of Huntingdon; but dying without lawful heirs-male of his own body *anno* 1233, although Thomas Earl of Athol, who was his brother, or at least the son of Thomas, were still alive; yet his honours of Lord Galloway went by his daughter Dornagill, upon the decease of her two elder sisters without issue, to John Baliol; whose son John Baliol is on that account constantly designed Lord Galloway, during his competition with Robert the Bruce, Earl of Carrick, &c. about the succession to the crown.

24. Adam Lord Gordon, killed at Hornildun *anno* 1401, Gordon. was succeeded in the lordship of Gordon, &c. by Elisabeth

his daughter and sole Heir, married in 1408 to Alexander Seton, son to William Lord Seton; who, in her right, was Lord Gordon, though he retained the surname of Seton. Their son Alexander in charters designs himself *filius et heres quond. Dominæ Elisabethæ Gordon de eod.*

N. B. Alexander the father is to be found sitting in parliament as Lord Gordon *anno* 1429.

Halibur-
ton.
L. Dirle-
ton.

25. The Haliburtons became Lords of Dirleton, by the marriage of the heir-female of the Vassals formerly Lords thereof; but the heir-male likewise failing with Patrick Lord Dirleton, although his estate was thereupon divided among his three daughters, coheiresses; yet the arms and title of Lord Dirleton were afterwards assumed and carried by William Lord Ruthven, afterwards Earl of Gowrie, in the right of Janet the eldest daughter of the said Patrick Haliburton, Lord Dirleton, above-mentioned.

Herries.

26. William Lord Herries, who died *anno* 1543, left issue three daughters his coheirs; the eldest whereof, Agnes, was married to Sir John Maxwell, son to Robert Lord Maxwell, who, in right of his wife, was summoned to parliament *anno* 1567, and sits therein as Lord Herries. The family continued a distinct peerage till the year 1667, that John Lord Herries succeeded Robert Earl of Nithsdale.

Lenox.

27. Donald Earl of Lenox having no male issue, the earldom devolved on Margaret his daughter and heir, who married Walter Lord of Tresslean. They had a son, Sir Duncan, in whose favour they resigned the earldom of Lenox, *tempore Roberti II.* This Earl Duncan had three daughters, first, Isabel, married to Murdoch Duke of Albany; 2d, Margaret, married to Robert Monteith of Rufey; 3d, Elisabeth, married to John Lord Darnley. He was forfeited by his son-in-law the Duke of Albany, and executed at Stirling *anno* 1426. Isabel Duchess of Albany, his daughter, in a charter, is designed *Ducissa de Albany, Comitissa de Lenox*, whereby she mortifies some lands to the black fryars of Glasgow, with con-

sent of her sister the Lady Rusey; which shows, that she looked upon herself as Countess of Lenox; which undoubtedly she would have been, had it not been for the forfeiture of her father, which no doubt he looked upon to be unjust. The Duchess of Albany's lawful posterity failing, there arose a controversy about the title of Lenox, and the superiority and lands of that earldom, betwixt John Lord Darnly, grandson to Elizabeth, daughter to Duncan Earl of Lenox, and Agnes Monteith, Lady Gleneagles, lineal heir of Margaret, the said Earl's other daughter: For the Lord Darnly having served himself heir to Duncan Earl of Lenox *anno* 1436, (whose forfeiture it would appear, had been rescinded), assumed the title of Earl of Lenox; in which he was opposed by the Lady Gleneagles, who contended that she was descended from the eldest sister; whereupon he was obliged to lay aside the title: But the controversy being afterwards referred to arbiters, *anno* 1477, matters were so managed by the Lord Darnly, then in great power with the King, and otherwise more powerful than his competitor, that she was decerned to renounce her claim to the title and superiority of the earldom of Lenox, and got only a part of the land; whereupon the Lord Darnly, *anno* 1483, resumed the title of Earl of Lenox.

28. Gratney Earl of Mar, by Bruce, sister to Mar.
King Robert I. had issue, Donald his successor, and Helen, married to Sir John Monteith, Knight, (from whom Robert Lord Erskine, who claimed the Earldom of Mar in the reign of King James II. was lineally descended). Donald Earl of Mar, killed at Duplin *anno* 1332, left issue Thomas his son and heir, and a daughter, Margaret, her brother's heir.

29. Margaret Countess of Mar succeeded her brother, who died issueless, *anno* 1379, married James Earl of Douglas, who thereupon called himself Earl of Douglas and Mar. Their son, James Earl of Douglas and Mar, being slain at the battle of Otterburn 1388, without lawful issue, the earldom

dom of Mar went to Isabel Douglass, his sister-german, who, in charters designs herself *Isabella de Douglas Comitissa de Mar*. She married, first, Sir Malcolm Drummond, Knight, in her right, intitled Lord of Mar; and, after his death, she again married Sir Alexander Stewart, son and heir of Alexander Earl of Buchan. In contemplation of their marriage, she, by charter in 1404, made over the earldom of Mar, &c. to the said Alexander, her future husband, and to the heirs to be procreate betwixt them; which failing, to the said Alexander's lawful heirs and assignees whatsoever; whereupon he was Earl of Mar, and is to be found mentioned in 1406. Under that designation, this Alexander Earl of Buchan and Mar, having no issue by his Countess, resigned the earldom in the hands of King James I. in favour of Sir Alexander his natural son. This last Alexander Earl of Mar died, in 1436, without issue.

Erskine E.
of Mar.

30. Robert Lord Erskine, lineal heir of Helen daughter of Gratney, and sister of Donald Earl of Mar, served himself heir, *anno* 1436, to Isabel Douglass Countess of Mar, his cousin, and thereupon assumed the title of Earl of Mar, and is to be found so in charters which he grants *anno* 1444: But the ministry, in the minority of King James II. intented a process against him, in reference to his right to that earldom; he died before it came to an issue; but, in 1457, a sentence was given against his son Thomas Lord Erskine; but long after, in the year 1565, Queen Mary restored the earldom of Mar, &c. to John Lord Erskine, by way of Justice, which was ratified to him in parliament.

Monteith.

31. Sir William Cuming became Earl of Monteith by the marriage of the daughter and heir of Gilchrist, who was Earl of Monteith, *tempore* Mal. IV.; and he the said Walter Cuming dying likewise without issue-male,

32. His daughter and heir by his said lady, married Sir Walter Stewart, who was thereby also Earl of Monteith.

33. Murdoch

(9)

33. Murdoch Earl of Monteith, slain at Halidounhill, *anno* 1333, was succeeded by Mary, the daughter of his brother Allan, married to Sir John Graham, in her right, Earl of Monteith, and who, by her, had only one daughter, Margaret, the sole heir.

34. Margaret Countess of Monteith was married to Robert, second son of King Robert II. who thereupon was Earl of Monteith; afterwards, by his brother Robert III. made Duke of Albany.

35. King Robert I. erected the lands of Murray into an *Murray*. earldom, in favour of Thomas Randolph his nephew. This Earl left issue John, his son, and daughters, Agnes, married to Patrick Earl of March; and Isabel, to Sir William Murray. John succeeded his father in 1331, and was slain at the battle of Durham 1346, without issue. His estate and honours devolved on Agnes Countess of March, his sister, in whose right, or by the courtesy of Scotland, her husband designed himself Earl of March and Murray.

36. This Patrick Earl of March, and Agnes Countess of Murray, his wife, resigned the Earldom of Murray, as would appear from charters in the rolls of King Robert II. in which that prince gives the earldom of Murray to John Dunbar, and Marjory his Daughter.

37. James Dunbar Earl of Murray leaving two daughters his heirs, the elder, Janet, was married, in his own lifetime, to James, son to the Lord Crichton; and Marion, the younger, after her father's death, to Archibald, brother to the Earl of Douglas, who usurped the Earldom of Murray, though the dignity and estate, according to law should have gone to the Lord Crichton, who had married the elder sister; such was the power of the Douglasses at that time, as is noticed by our historians; but he was forfeited *anno* 1455.

38. Henry Sinclair Earl of Orkney, Lord Rosline, &c. *Nithsdale*. married Giles Douglas, daughter to William Douglas, Lord of Nithsdale, and thereby became Lord Nithsdale, warden
of

of the marches, sheriff-justiciar, and chamberlain of Dumfries, &c. to all which honours their son William likewise succeeded in the right of his mother, until he afterwards disclaimed the same, upon his being, in lieu thereof, created Earl of Caithness *anno* 1456.

Oliphant.

39. This Noble family affords a very notable instance whereby the undoubted right of the female succession to peerage, by the law of Scotland, is established. For a thorough conviction whereof, Captain Fraser and his doers may, if they please, consult the famous decision, Oliphant *contra* Oliphant, 11 July 1633; only they must take this one observation likewise along with them, That Sir James Douglas, who had married the heir-female, in that case was created Lord Mordington, with the precedence of the old Lords Oliphants, leaving to the heir-male the empty name of Oliphant, with a very considerable diminution of honour.

40. Malifius Earl of Strathern became likewise Earl of Orkney and Caithness, as is already observed in the instance of Caithness, by marrying the daughter of Magnus Earl of these countries; and afterwards resigned the earldom of Orkney in favour of William Sinclair, Lord of Rosline, and Elizabeth, his daughter by the heiress of the said Earl Magnus.

Ros.

41. William Earl of Ross left issue only two daughters; whereof the eldest, Euphame, succeeded in his estate and honours, though he had a brother, Hugh, ancestor of Balnagown. The said Countess of Euphame married Sir Walter Leslie, who, in her right, was called Lord of Ross, and by her had issue Sir Alexander Leslie, Earl of Ross, and a Daughter, Euphame, married to Donald Lord of the Isles. This last Earl Alexander married Euphame, daughter of Robert Duke of Albany; by whom he had only a daughter, Euphame; who, turning herself a nun, was, by the above Duke her grandfather, prevailed on to resign her honours, &c. in favour of her uncle, his second son, John Earl of Buchan; who thereupon

(II)

upon took upon him the title of the Earl of Ross, and, with the assistance of his friends in the then government, was resolved to maintain his right thereto, by virtue of his niece the above Countess Euphame's resignation; which being quarrelled by Donald Lord of the Isles, in the right of his wife, who was sister to the father of the said Euphame immediately last named, and consequently the undoubted heir of the Leslies, Earls of Ross; which dispute came soon after to be tried at Harlieu, where neither side indeed had cause to boast of victory; but Donald, however, till his death, continued still Earl of Ross, and was succeeded therein by Earl Alexander his son, who was forfeited in November 1475; but, in July thereafter 1476, he had all his other hereditary possessions, except the earldom of Ross, lordship of Kintyre and Knaysdale, restored to him; but with this further new restriction likewise on these, that they, for the future, should go to the heirs-male.

42. William Frazer having, *anno* 1598, married Margaret Salton. the daughter of George Abernethie, Lord Salton, whose male issue failed in his son Alexander, who succeeded him, *anno* 1669; Alexander, the son of the above William Frazer, thereupon served himself heir of line to his grandfather the said George, and took upon him the title of Lord Salton accordingly; which was approven of and confirmed to him by patent, and act of parliament *anno* 1670, as, and on account of his being heir of line and next of blood to the said Abernethie, Lord Salton, last deceased, &c.

43. Robert Lord Semple married Anna, daughter of James Semple. Lord Mordington, by whom he had Francis, his successor; and two daughters, Anna, married to Francis Abercrombie of Fretternier, and Jean, to Alexander Sinclair of Rosline. Francis Lord Semple dying without issue *anno* 1684, Anna his sister succeeded him in his estate and dignity; who having married the above Francis Abercrombie, King James VII. created him Lord Glasfurd, for his own lifetime only, in regard
the

the title of Lord Semple was to descend to the heirs of Anna Baronness of Semple, his wife; she died 1691, and was succeeded by her eldest Son Francis, late Lord Semple.

Sinclair. 44. John Lord Sinclair had only one daughter, Katharine; she married John Sinclair, son of Sir John Sinclair of Hermandston, by whom she had Henry Lord Sinclair, who became soon his grandfather's death.

Strathern. 45. Malise Earl of Strathern was succeeded in the earldom by Joanna his eldest daughter, married to John Earl of Warren and Surrey; she was engaged in treasonable practices against her country, for which the earldom was escheated to the crown.

Strathern.
Stewart. 46. King Robert II. gave the earldom of Strathern to David his son; he left only a daughter, Euphame, Countess of Strathern; which Euphame married Sir Patrick Graham, who, in her right, was Earl of Strathern, he being so designed in charters about that time. Their son Malise was Earl of Strathern, from whom King James I. after his return, resumed the earldom, upon reasons not well known, and was looked upon as a hardship; but the King afterwards gave him the earldom of Monteith, in lieu of the other, in the year 1630. King Charles I. ratified to William Earl of Monteith, the right to the said earldom, upon his service as heir of line to David Earl of Strathern aforesaid, which his Majesty was again pleased to resume by a process of reduction in the year 1633, whereof the alledged reasons may be partly seen in the two decisions observed by Durie, the 20th and 22d of March said year, the King's Majesty *contra* the Earl of Strathern.

Sutherland. 48. Elisabeth having served heir to John Earl of Sutherland, her brother, who died without issue 1512; Adam Gordon, son of George, second Earl of Huntly, who married her at that time, did thereupon assume the title of Earl of Sutherland, *ratione carcelitatis*; and afterwards they were succeeded by John their Grandson, in favour of whose father Alexander Master of Sutherland (but who died before themselves) the said

said Countess Elisabeth had formerly resigned the said earldom *anno* 1527.

49. Though the dignity of Burleigh be confirmed by patent, yet, in regard of the singular nature thereof, we thought proper to insert it. Sir Michael Balfour having been created Lord Burleigh, by his patent in the 1607, without mention of heirs, his daughter Anne succeeded him in his honours, and Robert Arnot of Furny, her husband, and John next Lord Burleigh.

The above condescendence is offered under protestation to add thereto, at any time during the course of this process.

South Britain may also be added.

and Countess Elizabeth had formerly resided in the city of London.

29. Though the dignity of Baroness is commonly paid for, yet in regard of the singular nature thereof, whereby it is not to be taken for a purchase, but as a reward given to a person for his services, it is not to be sold, nor is it to be given to any person but by the King, and his heirs, and his lawful successors.

30. The dignity of Baroness is not to be given to any person but by the King, and his heirs, and his lawful successors.

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